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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/836,369	10/20/1997	VOLKER SCHMIDT	RSG 8379 US	6185
7590 07/28/2006			EXAMINER	
Law Office of Charles E. Krueger			JAGAN, MIRELLYS	
P.O. Box 5607			ART UNIT	
Walnut Creek, CA 94596			PAPER NUMBER	
			2859	

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

08/836,369

Applicant(s)

SCHMIDT, VOLKER

Examiner

Mirellys Jagan

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3 and 82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent 5,368,392 to Hollander et al [hereinafter Hollander] in view of U.S. Patent 4,948,258 to Caimi.

Hollander discloses a device for temperature measurement comprising:

a radiometer having a detector and an optical system for imaging the heat radiation emanating from a measurement spot onto the detector, and

a sighting arrangement having a laser aligned to illuminate an optical element (30) moved by a motor to produce a light pattern that identifies and outlines the position and size of the measurement spot by means of visible light;

wherein the optical element generates a circular or square arrangement of more than two beams to outline and identify the energy zone.

Hollander does not disclose the optical element of the sighting arrangement being a diffractive optical system formed by a holographic element.

Caimi discloses a diffractive optical system formed by a holographic element (8). The holographic element is illuminated by a laser beam to split the laser beam into a plurality of divergent laser spots to form a predetermined pattern of spots on a surface and mark a location on the surface (see column 1, lines 19-36; column 3, lines 40-59; column 4, lines 50-64).

Referring to claim 1, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sighting arrangement disclosed by Hollander by replacing the optical element and motor of the sighting arrangement with a holographic element, as taught by Caimi, to form a light pattern in order to simplify the sighting arrangement by reducing the number of individual working parts.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 82 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollander and Caimi, as applied to claims 1 and 3 above, and further in view of U.S. Patent 5,909,423 to Fukui et al [hereinafter Fukui].

Hollander and Caimi disclose a device having all of the limitations of claim 82, as stated above in paragraph 2, except for the holographic element producing a circular pattern.

However, Hollander teaches that it is desirable to produce a circular light pattern since some radiometers have a circular field of view.

Furthermore, Fukui teaches that a holographic element can produce a circular pattern of light when irradiated with a laser beam.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device disclosed by Hollander and Caimi by making the holographic element produce a circular light pattern, as taught by Fukui, since Hollander teaches that a circular light pattern is useful when using a radiometer having a circular field of view.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 3, and 82 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mirellys Jagan whose telephone number is 571-272-2247. The examiner can normally be reached on Monday-Friday from 11AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2859

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ  
July 11, 2006



**Mirellys Jagan**  
**Patent Examiner**  
**Technology Center 2800**